[10191/2209]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

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In re Application of:
      Rainer SOMMER

For: VEHICLE CONTROLLER AND
           CONTROL METHOD

Filed: January 11, 2002

Serial No.: 10/045,789

   : Examiner: Brian J. Broadhead
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   : Art Unit: 3661
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Mail Stop Appeal Brief - Patents
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P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF TRANSMITTAL

SIR:

     Transmitted herewith for filing in the above-identified patent application please find an Appeal Brief pursuant to 37 C.F.R. § 1.192(a), in triplicate.

     Please charge the Appeal Brief fee of $340.00, and any other fees that may be required in connection with this communication to the deposit account of **Kenyon & Kenyon**, deposit account number **11-0600**. A duplicate of this paper is attached for this purpose.

Respectfully submitted,

Dated: 6 o ct 2004

By:_____
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

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In re Application of: : Examiner: Brian J. Broadhead

      Rainer SOMMER   :
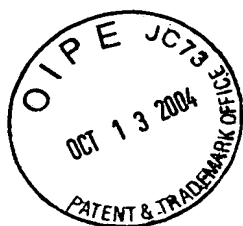
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Atty's Signature_____

MICHELLE M. CARNIAUX
KENYON & KENYON

APPEAL BRIEF PURSUANT TO 37 C.F.R. § 1.192(a)

SIR:

      On August 24, 2004, Appellant submitted a Notice of Appeal from the final rejection of claims 1-12 contained in the Final Office Action issued by the U.S. Patent and Trademark Office (the "PTO") on April 2, 2004 in the above-identified patent application.

      In accordance with 37 C.F.R. § 1.192(a), this brief is submitted in triplicate in support of the appeal of the final rejection of claims 1-12. For at least the reasons set forth below, the final rejection of claims 1-12 should be reversed.

1.   REAL PARTY IN INTEREST

      The real party in interest in the present appeal is Robert Bosch GmbH, Postfach 30 02 20, 70442 Stuttgart, Federal Republic of Germany. Bosch is the assignee of the entire right, title and interest in the present application.

2.   **RELATED APPEALS AND INTERFERENCES**

There are no interferences or other appeals related to the present application.

3.   **STATUS OF CLAIMS**

Claims 1-12 stand rejected under 35 U.S.C. § 102(b) as anticipated by Volkswagen official repair manual for model year 1999 Jetta/Golf/GTI (the "Manual").

Appellant appeals from the final rejection of claims 1-12. A copy of all of the pending claims is attached hereto in the Appendix.

4.   **STATUS OF AMENDMENTS**

Appellant filed a Response After Final Rejection on May 24, 2004. However, the Response did not contain any amendments.

5.   **SUMMARY OF THE INVENTION**

The present invention relates to a vehicle controller and a method for a vehicle controller that is designed for a plurality of different vehicle versions. Fig. 1 shows an example embodiment of the vehicle controller. *Specification*, page 2, line 28. In this case, the vehicle controller includes a code word memory 10 that may hold a version coding, *id.*, page 2, line 30; a memory 30 for application data, e.g., control parameters of a plurality of different vehicle versions, *id.*, page 2, lines 16-17, and page 3, lines 4-6, and lines 19-20; a processing unit 20 for processing the version coding of the memory 10, *id.*, page 3, lines 10-16; a selector unit 40 for accessing and reading memory locations in the memory 30 based on the processing of the processing unit 20, *id.*, page 3, lines 15-17; and a control unit 50 for executing a control program based on a value read by the selector unit 40. *Id.*, page 3, lines 14-15. The control parameters may pertain to, for example, an electronic unit such as a generator. *Id.*, page 3, line 31 - page 4, line 2.

The version coding pertains to information regarding the vehicle allocated to the vehicle controller. *Id.*, page 2, line 30 - page 3, line 2. The vehicle controller is customized for the allocated vehicle, for example, by executing a control program via the control unit 50, based on a processing of the version coding by the processing unit 20. *Id.*, page 3, lines 8-20.

The version coding includes a plurality of bit positions. *Id.*, page 3, lines 11-12. The selector unit 40 may access and read control parameters of the memory 30 based

on a direct processing and/or an indirect algorithmic processing of the version coding by the processing unit 20. *Id.*, page 3, lines 8-12. For the direct processing, the processing unit 20 may process values of individual bit positions of the version coding to ascertain particular memory locations of the memory 30 based on an allocation of certain individual values of the memory 30 to individual items of information of the version coding, i.e., individual values of the individual bit positions. *Id.*, page 3, lines 8-9. For the indirect processing, the processing unit 20 may algorithmically process values of combinations of bit positions of the version coding, determined by logic links of the bit positions formed in the processing unit 20, to ascertain particular memory locations of the memory 30, e.g., in addition to those locations ascertained via direct processing, based on an allocation of certain individual values of the memory 30 to combinations of information of the version coding. *Id.*, page 2, lines 14-17, and page 3, lines 9-15.

Control parameters may also be contained in the stored version coding. Page 2, lines 11-14, and lines 19-20. The control parameters contained in the version coding may be in addition to control parameters stored in the memory 30. *Id.*, page 2, lines 16-20. Fig. 2 shows an example embodiment of those parts of the vehicle controller that may be used for executing control parameters contained in the version coding, i.e., the memory 10 for storing the version coding, the control unit 50 for executing the control parameters, and the processing unit 20 for retrieving the control parameters and sending them to the control unit 50. *Id.*, page 4, lines 6-10.

6. **ISSUE**

Whether claims 10-20 which stand rejected under 35 U.S.C. § 102(b) are patentable over the Manual.

7. **GROUPING OF CLAIMS**

Group I: Claims 1, 2, 5-8, 11, and 12;

Group II: Claim 3, 4, 9, and 10.

Appellant respectfully submits that the claims of each Group stand or fall together with the other claims of that Group. However, each Group of claims does not stand or fall together with any other Group of claims.

8. **ARGUMENTS**

A.   Group I

Claims 1, 2, 5-8, 11, and 12 stand rejected under 35 U.S.C. § 102(b) as anticipated by the Manual. It is respectfully submitted that the Manual does not anticipate any of claims 1, 2, 5-8, 11, and 12, for at least the following reasons.

Claim 1 recites, inter alia, the following:

> **. . . means for storing a version coding for customizing the vehicle controller . . . and means for indirect selection of control parameters . . . by algorithmic processing of values of a plurality of bit positions of the version coding.**

Claim 7 is a method claim and includes similar subject matter.

The Manual discusses entering a code that represents a vehicle version, including available equipment, for the purpose of diagnostic testing of the vehicle. Nowhere does the Manual disclose the storing of a code for customizing *a vehicle controller*. Nowhere does the Manual disclose *control parameters* of vehicle versions for which a vehicle controller is designed, or selection thereof.

Furthermore, the Manual does not describe what is done with the code that is entered. The Manual does not disclose an algorithmic processing of values of a plurality of bit positions of a version coding in order to select control parameters. The Examiner asserts that an algorithmic processing of bit values is inherently disclosed in the Manual, because some processing must be involved, for example a comparison process in mapping a code number to equipment that is available in the particular vehicle. However, nowhere does the Manual disclose *indirect* selection of control parameters by algorithmic processing.

The Manual describes a code that is made up of a number of bit positions. The values entered in the bit positions directly reference a particular vehicle version. For example, the value "02" entered in the first two bit positions directly indicates that the particular vehicle includes a seatbelt warning. The Manual further describes a method by which a tester manually determines the code to be entered. For example, if a vehicle includes both a brake pad wear warning, represented by "01" and a seatbelt warning, represented by "02," the tester enters "03" as the value for the first two bits of the code. Although a number in two digit positions, for example, "03," may relate to an indication of the availability of a single item, once the code is entered, a processor may *directly map* the entered value to the equipment present in the vehicle. Nowhere does the Manual disclose the *indirect* selection of control parameters by an *algorithmic process*

performed upon bit values of a code. Thus, the Manual does not disclose, or even suggest, each limitation of claims 1 and 7.

It is therefore respectfully submitted that the Manual does not anticipate any of claims 1 and 7.

Claims 2, 5, and 6 ultimately depend from and therefore include all of the limitations of claim 1. It is therefore respectfully submitted that the Manual does not anticipate these dependent claims for at least the same reasons given above in support of the patentability of claim 1.

Claims 8, 11, and 12, ultimately depend from and therefore include all of the limitations of claim 7. It is therefore respectfully submitted that the Manual does not anticipate these dependent claims for at least the same reasons given above in support of the patentability of claim 7.

In view of the foregoing, it is respectfully submitted that the Manual does not anticipate any of claims 1, 2, 5-8, 11, and 12 of the present application. Reversal of the Examiner's rejection of claims 1, 2, 5-8, 11, and 12 under 35 U.S.C. § 102(b) is, therefore, requested.

B.   Group II

Claims 3, 4, 9, and 10 stand rejected under 35 U.S.C. § 102(b) as anticipated by the Manual. It is respectfully submitted that the Manual does not anticipate any of claims 3, 4, 9, and 10, for at least the following reasons.

As an initial matter, claims 3 and 4 depend from and therefore include all of the limitations of claim 1. It is therefore respectfully submitted that the Manual does not anticipate these dependent claims for at least the same reasons given above in support of the patentability of claim 1.

Claims 9 and 10 ultimately depend from and therefore include all of the limitations of claim 7. It is therefore respectfully submitted that the Manual does not anticipate these dependent claims for at least the same reasons given above in support of the patentability of claim 7.

Moreover, claim 3 recites, inter alia, the following:

> ... wherein the means for selection is adapted to read
> control parameters which are contained in the version
> coding.

Claims 9 and 10 are method claims and include similar subject matter.

Claim 4 recites, inter alia, the following:

**. . . means for reading control parameters contained in
the version coding.**

The Manual discusses entering a code that represents a vehicle version, including available equipment. The code includes only a number of digits. ***Nowhere does the Manual disclose that the code contains control parameters***. For this additional reason, it is submitted that the Manual does not disclose all of the limitations of any of claims 3, 4, 9, and 10.

In view of the foregoing, it is respectfully submitted that the Manual does not anticipate any of claims 3, 4, 9, and 10 of the present application. Reversal of the Examiner's rejection of claims 3, 4, 9, and 10 under 35 U.S.C. § 102(b) is, therefore, requested.

9. CONCLUSION

For at least the reasons indicated above, Appellant respectfully submits that the art of record does not teach or suggest Appellant's invention as recited in the claims of the above-identified application. Accordingly, it is respectfully submitted that the invention recited in the claims of the present application is new, non-obvious and useful. Reversal of the Examiner's rejections of the claims is therefore respectfully requested.

Respectfully submitted,

Dated: _____   By:_____
                                      Richard L. Mayer
                                      Registration No. 22,490

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APPENDIX

1. A vehicle controller designed for a plurality of different vehicle versions, comprising:

      means for storing a plurality of control parameters for the different vehicle versions;

      means for storing a version coding for customizing the vehicle controller for a predetermined vehicle version, the version coding having a plurality of bit positions; and

      means for indirect selection of control parameters from the means for storing control parameters by algorithmic processing of values of a plurality of bit positions of the version coding.

2. The vehicle controller according to claim 1, further comprising means for direct selection of control parameters from the means for storing control parameters as a function of values of individual bit positions of the version coding.

3. The vehicle controller according to claim 1, wherein the means for selection is adapted to read control parameters which are contained in the version coding.

4. The vehicle controller according to claim 1, further comprising means for reading control parameters contained in the version coding.

5. The vehicle controller according to claim 1, wherein the control parameters pertain to characteristic values of an electric unit.

6. The vehicle controller according to claim 5, wherein the the electric unit is a generator.

7. A control method for a vehicle controller designed for a plurality of different vehicle versions and having access to a plurality of control parameters for the vehicle versions, the method comprising:

      version coding for a vehicle version for customizing the vehicle controller; and

      selecting control parameters of the vehicle version by algorithmic processing of values of a plurality of bit positions of the version coding.

8. The method according to claim 7, wherein the control parameters of the vehicle version

are directly selected as a function of a value of individual bit positions of the version coding.

9. The method according to claim 8, wherein the control parameters of the vehicle version are contained in the version coding.

10. The method according to claim 7, wherein the control parameters of the vehicle versions are contained in the version coding.

11. The method according to claim 7, wherein the control parameters pertain to characteristic values of an electric unit.

12. The method according to claim 11, wherein the electric unit is a generator.